

CRS Report for Congress

Received through the CRS Web

Peru: Recovery from Crisis

Updated April 25, 2002

Maureen Taft-Morales
Analyst in Latin American Affairs
Foreign Affairs, Defense, and Trade Division

Peru: Recovery from Crisis

Summary

Peru survived constitutional and political crises in 1999 and 2000 and now faces the challenges of further strengthening democratic institutions and stimulating the economy. President Alejandro Toledo assumed office on July 28, 2001. He won extraordinary elections that had to be organized following the sudden resignation in November 2000 of President Alberto Fujimori in the wake of electoral, human rights, and corruption scandals.

President Fujimori headed Peru from 1990 to 2000. During that time he did much to bring under control destabilizing factors such as terrorism, drug trafficking, hyperinflation, and border disputes. But Fujimori also led the country into constitutional crises, and his efforts to remain in power eroded democratic institutions. Allegations of electoral fraud and an eruption of scandals involving his top aide led to his sudden resignation, after which constitutional succession passed the presidency to the President of the Congress, Valentin Paniagua, in November 2000.

The immediate challenge facing the interim government was to organize new presidential and parliamentary elections. First and second round elections on April 8 and June 3 were widely praised as being free and fair, and Alejandro Toledo was elected President. The Toledo administration faces the more long-term challenge of maintaining stability while trying to strengthen democratic institutions weakened by 10 years of a democratically elected, but autocratically run, government.

Peru is located along the Andean mountains of South America. Although economic conditions have improved over the last five years, there is still extensive poverty in Peru. Peru has a free market economy.

The United States and Peru have enjoyed generally friendly relations over the past decade, although the recurring political crises of the Fujimori government strained those relations. The primary U.S. interest in Peru has been the reduction of illicit narcotics production and trafficking. Other stated goals of U.S. assistance are: broader citizen participation and more responsive government; increased incomes for Peru's poor; improved health of high risk populations; and improved environmental conditions. The United States pressed the Fujimori government to improve respect for human rights; for much of his term Fujimori's regime had one of the worst human rights record in the hemisphere. Both the interim and the Toledo governments have taken steps to improve respect for human rights. The United States has been concerned about security in Peru and in the Andean region as a whole.

The U.S. Congress has expressed concern about the development of democratic institutions in Peru, and has conditioned aid on the respect for those institutions, and for human rights, and the holding of free and fair elections. Congress has also expressed concern about the case of Lori Berenson, an American prisoner in Peru; the relationship between U.S. agencies and Peru's spy chief, Vladimiro Montesinos; and whether to resume a joint aerial drug-interdiction program that was suspended after the accidental shooting of an American missionary plane.

Contents

Socio-Economic Conditions	1
Political Conditions: State of Democracy in Peru	2
Erosion of Democratic Institutions under Fujimori	2
Elections of 2000	3
Fujimori's Fall	4
Interim Government	5
Organizing the 2001 Elections	5
Rooting Out Corruption	5
Stabilizing the Economy	6
The 2001 Extraordinary Elections	6
The Toledo Administration	7
U. S. Relations with Peru	8
Human Rights	9
Counter-Narcotics Efforts	10
Security	11
Congressional Concerns Regarding Peru	12
Counter-Narcotics Assistance	12
Investigations of Montesinos and Fujimori	12
Trade Issues	13
Investment	13
Intellectual Property Rights Protection	14
Lori Berenson	14

Peru: Recovery from Crisis

Peru survived constitutional and political crises in 1999 and 2000 and now faces the challenges of further strengthening democratic institutions and stimulating the economy. President Alejandro Toledo assumed office on July 28, 2001. He won extraordinary elections that had to be organized following the sudden resignation in November 2000 of President Alberto Fujimori in the wake of electoral, human rights, and corruption scandals.

Socio-Economic Conditions

Peru lies on the northwest coast of South America. Its western coastal plains and eastern tropical lowlands are separated down its middle by the rugged Andes Mountains. Three times the size of California, it has a population of 25 million, 72% of which live in urban areas. Over 7 million people live in and around the capital of Lima. Official languages are Spanish and Quechua; a number of other Indian languages are spoken as well. The population is 45% Indian, 37% mestizo (or mixed Indian- and European-descent), 15% white, and 3% black, Japanese, Chinese, and other groups.

Peru is a country of medium human development, according to the United Nations' Development Programme (UNDP), based on three socioeconomic indicators: longevity, educational attainment, and standard of living. Life expectancy in Peru is 68.6 years (compared to 76.8 years in the United States). The adult literacy rate is 89.2%. GDP per capita in 1999 was \$2,611. Although economic conditions have improved over the last five years, there is still extensive poverty in Peru. A sizeable portion of the population – 49% – live below the national poverty line. Thirty-three percent of the population lacks access to safe water. Twenty-eight percent lack access to sanitation. There is a broad gap in income distribution in Peru. The richest 20% of the population account for over half (51.2%) of the nation's income or consumption. The poorest 20% account for only 4.4% of income or consumption.¹

Peru has a free market economy. Among the reforms implemented by the Fujimori government (1990-2000) were a wide-ranging privatization program; simplification and strengthening of the tax system; lowering of tariffs; and the opening of Peru to foreign investment. The United States is Peru's largest trading partner; in 1999, the United States exported about \$1.6 billion to Peru. Peru is a member of the Andean Community and the Latin American Integration Association, with whose

¹United Nations Development Programme. "Human Development Report 2000." Oxford University Press, NY 2000. pp. 158, 169, 179.

members it shares duty-free access on many products. In 1998, the Andean Community agreed to establish a free trade area with MERCOSUR, the Southern Cone Common Market, after the year 2000. Peru signed a Free Trade Agreement with Chile in 1998, to be implemented over several years, and is negotiating one with Mexico as well.

Political Conditions: State of Democracy in Peru

Basic elements of a democracy include effective and independent legislative and judicial branches of government, freedom of expression, respect for human rights, and free elections. A broad array of organizations, both domestic and international, criticized Fujimori throughout his decade in power for impeding the development of these democratic elements.

Fujimori effectively controlled both the legislature and judiciary, inhibiting the development of either as independent democratic institutions. In 1999 and 2000, Freedom House classified Peru as the only country in the hemisphere, besides Cuba, where the press was “not free.” A State Department Human Rights report, released in February 2000, said that although human rights abuses had decreased in several areas, the Fujimori “Government’s human rights record was poor in several areas,” including the protection of civil and political rights. The latest elections held in Peru, in April and May, 2000, were deemed by international and Peruvian observers to have been neither free nor fair. That controversy, combined with the revelation of high-level corruption in his administration led Fujimori first to agree to new presidential elections in which he would not run, and then to flee to Japan and resign in November 2000.

Under the constitution’s rules of succession, the president of the Congress, Valentin Paniagua, became Peru’s new president. The immediate challenge facing the interim government was to organize the extraordinary elections, held on April 8, 2001, with a presidential run-off held on June 3. The Toledo administration faces the more long-term challenge of maintaining stability in Peru while trying to strengthen democratic institutions weakened by 10 years of a democratically elected, but autocratically run, government.

Erosion of Democratic Institutions under Fujimori. Most analysts acknowledge that in some major areas Fujimori brought greater stability to Peru. He did much to bring under control destabilizing factors such as terrorism, drug trafficking, hyperinflation, and border disputes. But Fujimori also led the country into several constitutional crises. He was elected in 1990 under a constitution which limited presidents to serving one 5-year term. In 1992, in what became known as a “self-coup,” Fujimori dissolved Congress and took control of the judiciary. Under intense domestic and international pressure, Fujimori then oversaw the drafting of a new constitution that went into effect in 1993, and scheduled elections. The new constitution allowed a president to serve two consecutive terms and established a unicameral legislation.

Fujimori ran again in 1995, and won a second 5-year term. He quickly began paving the way for yet another term, further eroding the independence of Peru's already weak democratic institutions as he did so. In 1996, the unicameral legislature, dominated by a pro-Fujimori majority, passed a "Law of Authentic Interpretation" which stated that Fujimori's election under the previous constitution did not count against the two-term limit of the current constitution. In 1997, the Constitutional Tribunal, a high court charged with deciding the constitutionality of laws, issued an opinion that the Law of Authentic Interpretation was not applicable. The Peruvian Congress dismissed the three members of the court who signed the opinion (the other four members abstained), rendering the court unable to act. The Congress also thwarted an effort by civic organizations to put the matter of a third term to a national referendum, voting against allowing it, even though petitioners gathered 1.4 million signatures – more than the 10% of registered voters required to do so.

The ability of Peruvian citizens to challenge such actions was further limited by the inability of the Constitutional Tribunal to act, and by Fujimori's withdrawal of Peru from the jurisdiction of the Inter-American Court for Human Rights. Fujimori withdrew from the court after the Inter-American Commission on Human Rights recommended in 1998 that Peru reinstate the three dismissed justices and restore the Tribunal's power to rule on constitutional issues. Fujimori's government announced it would not comply with the recommendation.

Elections of 2000.² Having cleared away obstacles to his candidacy, Fujimori ran for an unprecedented third term. All 120 seats of the unicameral legislature were contested along with the presidency. Many observers believed that electoral conditions did not represent a "level playing field" but an environment that heavily, and often unfairly, favored the incumbent. Numerous Peruvian and international election monitoring organizations and press reports indicated several areas of concern: the executive branch's manipulation of the judicial system to achieve its desired outcome; questions regarding the independence and impartiality of the electoral bodies responsible for organizing Peru's elections, and use of public resources for campaign purposes. Concerns regarding freedom of the press and access to information involved unequal media access, media bias, and harassment of candidates and domestic election observers. Two weeks before the April 9, 2000 elections, an international delegation to Peru organized by the National Democratic Institute for International Affairs (NDI) and the Carter Center stated that, "The conditions for a fair election campaign have not been established. Irreparable damage to the integrity of the election process has already been done..."³

The first round of elections was followed by three tense days of delayed results, widespread suspicion of fraud, and public protests. After international observers said they would not validate a first-round victory by President Fujimori, Peru announced there would be a second round of elections on May 28, though election officials

²For further information, see CRS Report RS20536, *Peruvian Elections in 2000: Congressional Concerns and Policy Approaches*, by Maureen Taft-Morales.

³National Democratic Institute for International Affairs. "Statement of the National Democratic Institute (NDI)/Carter Center Pre-Election Delegation to Peru." Lima, March 24, 2000.

denied there was any connection between the two acts. Election officials said Fujimori won 49.8% of the vote, and Alejandro Toledo 40.31%. More than 50% of the vote is needed to win in the first round.

As the second round election approached, both Peruvian and international observers reported that conditions for a free and fair election still did not exist. The Peruvian monitoring organization, Transparencia, and the Organization of American States (OAS) observer mission withdrew from monitoring the week before the runoff. Toledo withdrew as a candidate from the race. Fujimori denied requests from both organizations and Toledo to delay the vote in order to resolve irregularities. Official results showed Fujimori winning the election, with 51.2% of the votes cast. Toledo had called on voters to either boycott the vote or spoil their ballots; almost 30% of ballots were spoiled, and Toledo still received 17.7% of the vote even though he had withdrawn from the race.

Fujimori's Fall. The United States pressed for regional sanctions, but the OAS sent a high-level mission to press Peru for democratic reforms instead. An OAS permanent office was set up in Peru to oversee reforms and mediate a dialogue between the Fujimori government and elements of civic society, including opposition parties. Decreased support for Fujimori, and corruption and human rights scandals involving Fujimori's top aide, Vladimiro Montesinos, led Fujimori to agree to new elections in April 2001, in which he would not run.

On November 16, 2000, a group of opposition parties took over the presidency of the 120-member legislature for the first time since Fujimori suspended Congress in 1992. With Fujimori's loss of control over an institution which had become a rubber stamp for his initiatives, investigations into the expanding evidence of corruption in his administration – and his possible role in it – became a strong possibility. One of the opposition's first actions was to reinstate the three judges of the Constitutional Tribunal who had been fired after issuing an opinion unfavorable to Fujimori's efforts to seek a third term in office.

On November 20, President Fujimori faxed his resignation to the Congress from Japan, where he had gone following a visit to an economic forum in Brunei. Congress rejected his resignation, removing him by declaring him "morally unfit" for office instead, a move apparently made to make him ineligible to run for office again in Peru. With Fujimori's dismissal, and the resignation of his two vice-presidents, constitutional succession passed the presidency to the new President of the Congress, Valentin Paniagua.

Fujimori remains in Japan, where he has claimed Japanese citizenship based on the registration of his birth there by his parents, who were born in Japan. The Toledo administration seeks Fujimori's extradition, but the two countries do not have an extradition agreement. Further, Japan has confirmed Fujimori's citizenship and said he can remain in Japan indefinitely.

Interim Government

Valentin Paniagua was officially inaugurated President of Peru on November 22, 2000. His cabinet included former United Nations Secretary General Javier Perez de Cuellar as cabinet chief and foreign minister. The mandate of the interim government was widely seen to be threefold: (1) to guarantee and carry out free and fair elections scheduled for April 8, 2001; (2) to begin to restore the independence of democratic institutions by rooting out widespread political corruption; and (3) to prevent the economy from sliding into recession. The Paniagua administration served until the newly elected Toledo administration took office on July 28, 2001.

Following the June 3 elections, the head of the OAS Electoral Observation Mission, Eduardo Stein, praised the performance of Paniagua's interim government, saying it showed "very strong political will and determination to address crucial problems of corruption, and tackle conflicts and conundrums resulting from the fall of the Fujimori regime," and "therefore draft an agenda for the future government."

Organizing the 2001 Elections. The Paniagua government committed itself to holding presidential and parliamentary elections as scheduled, on April 8, 2001. A respected academic, Fernando Tuesta, was appointed head of the National Office of Electoral Processes (ONPE), which oversees elections. He promised to carry out a "profound internal reorganization" of the electoral body, and began by replacing the ONPE leadership. The United States provided technical assistance and funded observation missions.

According to a report by the pre-election delegation of NDI and the Carter Center, "The conditions for organizing genuine democratic elections have been established in Peru, and the prospects for realizing them are strong." Describing the conditions surrounding the 2001 extraordinary elections as "fundamentally different" from those of the previous year's elections, the report said, "All of those with whom the delegation met expressed a high degree of confidence in the integrity of the new leaders of government and of the electoral authorities."⁴

Rooting Out Corruption. An independent prosecutor and special Congressional commission have been investigating the widespread corruption that apparently operated under the Fujimori regime. The network of corruption came to light through videotapes compiled by the former head of Peru's intelligence service, Vladimiro Montesinos. The videos show members of Congress and others accepting bribes from Montesinos. Montesinos fled the country soon after the first of these videotapes was broadcast last September. The Paniagua government issued a warrant for his arrest, and in June 2001, Montesinos was captured in Venezuela and returned to Peru. He faces some 168 criminal investigations into crimes including money laundering, illicit enrichment and corruption, organizing death squads, protecting drug lords, and illegal arms trafficking.

⁴National Democratic Institute for International Affairs. "Statement of the National Democratic Institute (NDI)/Carter Center Pre-Election Delegation to Peru." Lima, Jan. 26, 2001. p. 2.

The Paniagua administration also began purging the military of Montesinos associates, and attacking the impunity with which they operated. Over 40 high-ranking military officials have been forced to retire. Retired army general Walter Ledesma, appointed by Paniagua to oversee the “depoliticization” of the military, promised the “absolute impartiality” of the armed forces during the elections.

In late February and March, several actions were taken against former President Fujimori. The Peruvian Congress voted to bar Fujimori from holding any public office for 10 years. Congress also stripped him of his five-year presidential immunity, allowing for criminal proceedings against him. Peru’s attorney general filed criminal charges against him for abandonment of office and dereliction of duty. Congress and government prosecutors began investigating Fujimori for numerous accusations of impropriety, including embezzlement, mostly based on his link to Montesinos. The two were known in Peru as the “Siamese Twins” for their apparently tight-knit relationship, yet Fujimori denies any involvement with Montesinos’ alleged illicit activities over his 10 years in power.

Stabilizing the Economy. Peru’s fragile economic recovery was stalled by the uncertainty surrounding the demise of the Fujimori government in late 2000. By tackling corruption and demonstrating fiscal discipline, however, the interim government increased public confidence and kept the political crisis from leading to economic chaos. Economic Minister Javier Silva outlined Peru’s most serious economic problems as the national debt, the fiscal deficit, and the need to create a climate for investment. The government hoped to meet the fiscal goals for 2001 agreed upon with the International Monetary Fund. Some economists said that approach, adhering to strict fiscal constraints, may prolong economic stagnation. But others said Peru might experience slight economic growth by the end of the year.

The 2001 Extraordinary Elections

The 2001 elections determined the new President and all 120 members of the unicameral legislature. Traditional political parties were discredited in the 1980s, and current parties are mainly vehicles for an individual’s candidacy. There were 8 candidates running for president. Because no presidential candidate received more than 50% of the vote on April 8, a run-off between the top two candidates was held on June 3, 2001. Members of the legislature were elected on April 8, only needing a simple majority to win a seat. The first round of elections were generally deemed free and fair by domestic and international observers.

According to Peru’s electoral commission, Toledo, of the Peru Posible party, won 36.51% of the first round vote, and Garcia, of Partido Aprista Peruano, won 25.78%. Just behind Garcia was Lourdes Flores, a former member of Congress and long-time Fujimori critic, with 24.30% of the vote. Flores, an attorney, served in the legislature, or the Constitutional Assembly after the legislature was dissolved in 1992, from 1990 to 2000. If elected, she would have been the first woman elected president in Latin America on her own achievements, not as the wife of a deceased president. Flores represented the Unidad Nacional party.

The campaign period leading up to the presidential run-off election was marked more by exchanges of character attacks by the candidates than by debates on the issues. Polls showed much of the public to be disillusioned with both candidates, with as many as 25% saying they would cast null ballots. Voting is mandatory in Peru. In the final count, 13.8% cast blank or null votes.

There was at least one major episode of election-related violence. A bomb exploded near the national elections board headquarters on May 16, injuring seven people. Although pamphlets supporting the Shining Path guerrillas were found near the explosion, Peru's Interior Minister said the material was atypical of the group's fliers and that it was premature to attribute the bombing to the guerrilla group. Since the arrest of its leader, Abimael Guzman, in 1992, the Shining Path's members and activities have been reduced to a minimum.

The two presidential candidates facing a run-off were Alejandro Toledo, who withdrew from runoff elections with Fujimori last year because he believed they were not fair, and Alan Garcia, who was president of Peru from 1985 to 1990. Toledo won the election, with 53.0% of the vote; Garcia garnered 46.9%. Toledo, who earned his doctorate in economics from Stanford University and was an adviser to the World Bank, emphasizes his humble origins. He is one of 16 children from a poor indigenous family and shined shoes as a boy.

Garcia spent years in self-imposed exile abroad following allegations of corruption in his administration, and has only recently returned to Peru. Many critics blame Garcia's policies for creating a 7,000% annual inflation rate and a debt crisis which led Peru into economic chaos. Nonetheless, these elections marked a remarkable political comeback for Garcia, who can now be expected to be a powerful opposition voice during Toledo's term. In conceding the race, Garcia pledged to work for unity in pursuing a national agenda.

The head of the OAS Electoral Observation Mission to Peru said that Peru did an "incredible job" organizing "free and fair" elections on June 3 that were an example for the rest of Latin America.

The Toledo Administration

Reforms to restore and more fully develop democratic institutions have continued under President Alejandro Toledo's government. Many analysts believe Toledo's most difficult challenge will be enacting economic programs that will stimulate economic growth after 3 years of recession, create jobs, and reduce poverty. Although economic conditions have improved over the last decade, Peru remains a poor country. Some 50% of its population of 25.7 million lives in poverty, 15% in extreme poverty. Forty-five percent of the population is underemployed, although this is down from 74% underemployed in the late 1980s and early 1990s. Thirty-three percent of the population lacks access to safe water. Per capita GDP in 2000 was \$2,101.

During the presidential campaign, Toledo promised to create 2.5 million jobs over his 5-year term. Many Peruvians are impatient for economic improvement, which was reflected in the drop in Toledo's popularity from 59% just after his election to 30% in December 2001. Garcia's strong showing in the elections, say political analysts, denies Toledo a solid mandate for his programs. Nonetheless, Toledo's administration has raised over \$1 billion in foreign aid to finance his job creation program.⁵

Post-election polls also indicated that, despite having voted for him, many Peruvians have serious questions about Toledo's character. Many feel he did not adequately answer allegations – including that he used cocaine, fathered a child out of wedlock, and beat his wife – that arose during the campaign.

During a visit to Washington last June, Toledo emphasized the need for economic development, saying, "It's hard to rebuild democratic institutions when 54 percent of our people live below the poverty line." In exchange for foreign investment, he promised to attack corruption and push for badly needed reforms to make Peru's judicial and other institutions more transparent.

According to the *Wall Street Journal*, Peruvian and Wall Street analysts "point to passage of a prudent 2002 budget, plans for an ambitious privatization program, and agreement for a fresh standby loan from the International Monetary Fund as signs that Mr. Toledo and an economic team led by Economy Minister Pedro Pablo Kuczynski are creating the conditions for growth."⁶

As part of his government's effort to reform the military, Toledo appointed the first civilian Defense Minister in Peru's 180-year history, David Waisman. Waisman says that the administration is attacking corruption within the military and depoliticizing it, by purging the leadership and overhauling the military structure and its training institutes.

U. S. Relations with Peru

The United States and Peru enjoyed generally friendly relations over the past decade, although the recurring political crises of the Fujimori government strained those relations. The current Administrations appear to be establishing a relationship early on. As President-elect, Toledo traveled to Washington in June 2001, meeting with President Bush, other Administration officials, and business leaders, and asking for economic support and investment. On March 23, 2002, President Bush became the first U.S. President to visit Peru.

During that visit, the two Presidents pledged to fight terrorism and narcotics trafficking jointly. President Toledo, along with the Presidents of Colombia and

⁵"Peru's New Government: Teething Troubles," *The Economist*, Dec. 6, 2001.

⁶Marc Lifsher, "Peru's New Government Makes Economic Headway – Toledo Now Faces Task of Creating Jobs for the Masses of Poor," *Wall Street Journal*, Dec. 11, 2001.

Bolivia and Vice President of Ecuador, urged President Bush to extend and expand the Andean Trade Preference Act, which expired in December 2001. Bush said he is committed to the program and asked the U.S. Senate to vote on it as soon as possible.

President Bush discussed several U.S. initiatives involving Peru during his visit, including the provision of \$50 million over the next 5 years to support consolidating democratic reform and \$3.5 million to support the Truth and Reconciliation Commission in investigating past human rights abuses. He promised the continued declassification and delivery of State Department documents requested by Peru's Congress to support its investigation into corruption and abuses under the Fujimori government. Presidents Bush and Toledo also committed to signing a debt-for-nature swap, under which part of Peru's foreign debt will be cancelled in return for the Peruvian government's commitment to conserve and maintain wildlife reserves and other protected areas.

The two Presidents announced the re-establishment, after a 27-year absence, of the Peace Corps program in Peru, to which President Toledo has a personal connection. One of 16 children from a poor indigenous family, it was through Peace Corps volunteers that Toledo won a scholarship to study in the United States, where he ultimately earned a Ph.D. in economics from Stanford University.

President Bush also announced a new initiative, the "Millennium Challenge Account," on his tour of Latin America. According to the White House, countries that "practice good governance" by strengthening the rule of law, anti-corruption efforts, respect for human rights, and similar efforts; and "nourish human capital by investing in education and health care, and promote economic freedom through trade liberalization," would be rewarded with funds from the Millennium Account that would be in addition to U.S. assistance already provided.⁷

The primary U.S. interest in Peru over the past decade has been the reduction of illicit narcotics production and trafficking. According to AID, "The overriding U.S. national interest in Peru is to promote genuine democracy." Maintaining Peru's cooperation in combating narcotics trafficking tops a "second tier" of interests, which also include open markets and expansion of exports; poverty alleviation; improved health of high risk populations; and sound environmental policies and practices. U.S. assistance to Peru through AID was \$109.6 million for FY2001. Assistance for 2002 includes \$23.2 million for Child Survival and Health Programs; \$14.2 million in development aid; \$17.5 million in Economic Support Funds; \$30.8 million in Food Aid, Title II; and \$67.5 million for the Andean Counterdrug Initiative; for a total of \$153.2 million. The Administration requested \$146.9 million in aid to Peru for FY2003.⁸

Human Rights. The United States pressed the Fujimori government for improvement in respect for human rights; for much of Fujimori's term his regime had

⁷Lauren Monsen, "President's Trip to Latin America Will Focus on Trade, Development Issues," Washington File, U.S. Dept. of State, March 18, 2002.

⁸U.S. Agency for International Development, "Fiscal Year 2003 Budget Justification, Annex IV, Latin America and the Caribbean", pp. 285-288.

one of the worst human rights record in the hemisphere, according to State Department and other human rights reports. Violations of human rights by Peru's security forces included extrajudicial killings and torture. These and lack of accountability within the security forces remain a problem, although the post-Fujimori governments did make significant institutional improvements to improve respect for human rights. According to the State Department's 2001 Human Rights report on Peru, "Both the Paniagua and Toledo Administrations took steps to implement important democratic reforms to improve the exercise of civil and political rights and to address allegations of corruption in the judiciary, the executive, and the intelligence service."⁹ In August 2001 Peru's Congress voted unanimously to remove former President Fujimori's immunity from prosecution, and the next month he was indicted on charges of murder, causing grave injuries, and responsibility for forced disappearances. President Toledo formed a Truth and Reconciliation Commission that began to investigate past human rights abuses in November 2001. The Shining Path was responsible for murders, torture, and other human rights abuses.

Counter-Narcotics Efforts. Regarding counter-narcotics efforts, Peru has been considered fully cooperative in working towards the goals of the U.S.-Peruvian counter-narcotics framework agreement. During the last 4 years of Fujimori's term, Peru reported reduced illegal production of coca leaf by 66%.¹⁰ Since the downfall of former President Fujimori, however, there have been revelations of widespread drug-related corruption in Peru's armed forces during his rule. Fujimori's top military leaders have been jailed, charged with corruption, trafficking arms to Colombian guerrillas, and protecting drug traffickers from aerial interdiction. Peru remains one of the world's largest suppliers of coca leaf for cocaine.

A particularly sensitive issue last year was the accidental shooting down of a civilian missionary plane by a Peruvian Air Force plane conducting counter-narcotics aerial interdiction with U.S. personnel. The April 2001 incident, in which a mother and her infant (both U.S. citizens) were killed, led to the suspension of the aerial interdiction program in Peru and Colombia. Two reports are currently under review by the White House while a decision is made regarding the program's future. One is an investigation into the incident itself, conducted jointly by the two governments, released publicly in August. Sources close to the investigation say its classified recommendations suggest that the program, if renewed, must adhere more closely to International Civil Aviation Organization rules and there should be better dissemination of information within Peru to heighten civilian pilots' awareness of the program.

The other report, by former U.S. Ambassador to Colombia Morris Busby, is classified, but reportedly is a broader review of aerial interdiction policy, with recommendations for the program's future. Before the program could be renewed, officials say new agreements delineating more stringent oversight and procedures would need to be made by both countries, and a new Presidential Directive would need to be issued. Peruvian Foreign Minister Diego Garcia-Sayan says the aerial

⁹U.S. Department of State "Country Reports on Human Rights Practices, 2001: Peru." March 4, 2002, p. 1.

¹⁰U.S. Department of State "Background Notes: Peru." Mar. 2000, p. 10.

interdiction program is the only practical way to undercut the cocaine industry. Critics say the program is not necessary, however, because most trafficking through Peru is now conducted by other means, including ocean shipping along the Pacific coast, not by air.

U.S. Ambassador to Peru John Hamilton said that U.S. aid to Peru to fight drug production and trafficking would triple from previous years to over \$150 million in 2002. Over \$80 million is to support alternative development programs, and the rest is for interdiction, drug crop eradication, and demand reduction efforts.¹¹

In March 2002, the United States and Peru signed a Bilateral Peru Riverine Plan to increase joint police and naval operations against narcotics traffickers on Peru's rivers. The government of Peru is to maintain a regional Riverine Training School, and the United States will provide \$3 million in annual support of river operations and maintenance programs.¹²

Security. The United States has been concerned about security in Peru and in the Andean region as a whole. At the time Fujimori took office, in 1990, two guerrilla insurgency groups had terrorized Peru for a decade. Fujimori effectively dismantled both the Shining Path (Sendero Luminoso) and the Tupac Amaru Revolutionary Movement (MRTA). His enhancement of national security came at the cost of high levels of human rights violations, however, and his administration had one of the worst human rights records in the hemisphere. In 2001 there were signs that the Shining Path, the more violent group, was resurfacing as a threat. Peru's Interior Ministry announced in November 2001 that it had thwarted a Shining Path plan to attack the U.S. embassy in Lima, after which the U.S. State Department issued an advisory warning U.S. citizens to avoid Peru. On March 20, three days before President Bush is scheduled to visit Peru, two bombs exploded in a shopping center across the street from the U.S. Embassy in Lima. The Embassy was not damaged, but at least eight people were killed and dozens wounded. A Peruvian official said the bombing resembled attacks carried out by leftist guerrilla groups such as Sendero Luminoso in the 1980s and 1990s.¹³

A long-standing border conflict between Peru and Ecuador flared briefly into armed conflict in 1995. The two countries signed an agreement in 1998 to resolve the dispute peacefully. The United States provides assistance to reinforce that peace agreement and promote economic development of the border region. Toledo said that he would work with Ecuador and Chile to avoid border disputes, spend less on arms, and spend more on nutrition, health, and education.¹⁴

¹¹Craig Mauro, "U.S. to Hike Anti-Drug Aid to Peru," AP, Feb. 12, 2002.

¹²U.S. Department of State, Washington File, "Fact Sheet on U.S.-Peruvian Cooperation on Counternarcotics," March 25, 2002.

¹³"Peru Blasts Kill 8 Near U.S. Embassy; Bombs Set Across Street Before Bush Visit," Washington Post, March 21, 2002, p. A22.

¹⁴Frank Davies, "Peru's Toledo asks Washington for investment, Pledges Openness," Miami Herald, June 27, 2001.

Congressional Concerns Regarding Peru

Congress has expressed concern about the development of democratic institutions in Peru, and has conditioned aid on the respect for those institutions, respect for human rights, and the holding of free and fair elections. Congress has also expressed concern about counter-narcotics assistance, including whether to resume an air drug-interdiction program suspended after the accidental shootdown of an American missionary plane, and the relationship between U.S. agencies and Peru's former intelligence chief, Vladimiro Montesinos. Trade and investment issues are also of major interest to Congress. Members have also expressed concern regarding the case of Lori Berenson, an American prisoner in Peru.

Counter-Narcotics Assistance. The Andean Counterdrug Initiative, incorporated into the Foreign Operations appropriations bill for FY2002 (P.L. 107-115, signed into law Jan. 10, 2002), prohibits funding of a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to Congress, 30 days before resuming such a program, that enhanced safeguards and procedures are in place to prevent the occurrence of any incident similar to the one of April 2001. It also sets forth health and safety guidelines for aerial coca fumigation and specifies that not less than \$215 million shall be applied to USAID economic and social programs in the Andean region. This funding is part of the Bush Administration's Andean Regional Initiative. (For further information, see CRS Report RL31016, *Andean Regional Initiative (ARI): FY2002 Assistance for Colombia and Neighbors*, by K. Larry Storrs and Nina M. Serafino.)

Investigations of Montesinos and Fujimori. Since the fall of the Fujimori government, many observers have expressed concern regarding the former head of the Peruvian intelligence service, Vladimiro Montesinos, and his relationship to U.S. agencies, especially to the Central Intelligence Agency. As Fujimori's top adviser, Montesinos was also involved in Peru's collaboration with the United States in counter-narcotics efforts. Like Fujimori, Montesinos fled the country. He was captured in Venezuela, however, and returned to Peru, where he faces some 168 criminal investigations into crimes including money laundering, illicit enrichment and corruption, organizing death squads, protecting drug lords, and illegal arms trafficking.

In their oversight of counter-narcotics programs in Peru, Members of the 107th Congress continue to monitor these investigations, especially as they relate to relations between Montesinos and U.S. agencies. Peru's intelligence service received \$1 million annually from 1990 to 2000 for counter-narcotics assistance from the CIA. A declassified Drug Enforcement Administration document shows U.S. officials were aware by 1996 of allegations that Montesinos was taking protection money from drug traffickers.¹⁵ There were also reports that the service, known by its Spanish acronym of SIN, was responsible for an array of human rights violations. The United States has provided the Peruvian congressional committee investigating Montesinos's activities with declassified State Department documents, which show U.S. officials

¹⁵Kevin Hall, "CIA Paid Millions to Montesinos," Miami Herald, Aug. 3, 2001.

as wary of dealing with Montesinos in light of unconfirmed allegations of his involvement in corruption and human rights violations.

President Toledo thanked President Bush for U.S. help in Montesinos' arrest and asked the U.S. to help build Peru's case against former President Fujimori by releasing related classified U.S. documents. President Bush has promised the continued declassification and delivery of State Department documents requested by the Peruvian legislature.

Trade Issues. Peru has an essentially free market economy. The United States is Peru's largest trading partner, with each country exporting approximately \$2 billion to the other in 2000. Over the past decade, Peru has eliminated almost all non-tariff barriers to U.S. exports. Tariffs averaging 13% apply to virtually all U.S. exports to Peru. Tariffs on a very few agricultural goods are as high as 25%. Due to bilateral and multilateral tariff reduction agreements with Peru, exporters from some countries other than the United States have preferential access to Peru's market.

For 10 years, Peru has benefitted from the Andean Trade Preference Act (ATPA), which expired in December 2001, and advocates its renewal. Part of the U.S. effort to promote economic alternatives to illicit narcotics production, ATPA gave preferential, mostly duty-free treatment to certain Peruvian exports. **The Andean Trade Promotion and Drug Eradication Act (H.R. 3009)**, would reauthorize and expand the program. The House version passed Nov. 16, 2001; the Senate version (**S. 525, The Andean Trade Preference Expansion Act**) has been reported out of committee and awaits final floor action. Both versions would extend trade preference benefits into 2006, and expand duty-free treatment to include products that had previously been excluded, under certain conditions. Peru sought an extension to include unlimited access for apparel made from regional fabrics and traditional fibers such as alpaca and llama. Both versions of the bill would give preferential treatment to such exports. (For further information, see CRS Report RL30790, *The Andean Trade Preference Act: Background and Issues for Reauthorization*, by J.F. Hornbeck.)

One of the greatest barriers to trade and investment in Peru, according to a U.S. Trade Representative report, is the weakness of Peruvian government institutions. Neither executive nor judicial branch offices, nor regulatory agencies, has the expertise or resources to effectively conduct their duties. The judicial branch is especially susceptible to outside influence. In seeking foreign investment and support, President Toledo has acknowledged these weaknesses and promises to promote reform to strengthen Peruvian institutions.

Investment. The government launched a privatization program in 1992, and has greatly reduced its role in the economy since then. Most major state-owned businesses have been sold. The government has retained parts of the national petroleum company, some electrical utilities, and the Lima water company. U.S. companies have actively participated in Peru's privatization process, especially in the mining, energy, and petroleum sectors.

Over the past decade, Peru has eliminated most barriers to direct investment. National treatment for investors is guaranteed in Peru's 1993 constitution. Problems

for U.S. investors have included efforts by the Privatization Agency to exclude foreign investors from recent privatizations of electrical utilities by defining investors so as to exclude foreign ones; a law which restricts majority ownership of broadcast media to citizens of Peru; in at least one case reported by the U.S. Trade Representative, a Peruvian government entity was reluctant to agree to arbitration with a U.S. firm in lieu of a judicial proceeding, even though the constitution guarantees arbitration as an alternative to the courts.

Intellectual Property Rights Protection. Peru has been on the U.S. Trade Representative's "Special 301" Priority Watch List since April 1999 due to concerns that Peru inadequately enforces intellectual property rights. Although the government of Peru generally acts to promote and protect both domestic and foreign intellectual property rights, and Peruvian law provides for effective trademark protection, counterfeiting of trademarks and piracy of copyrighted goods continue to be widespread.

Lori Berenson. Berenson is an American who has been serving a life sentence in Peru on charges of treason. She was convicted in 1996 by a secret Peruvian military tribunal of helping the Tupac Amaru Revolutionary Movement (MRTA) plan a thwarted takeover of Peru's legislature. Berenson has maintained her innocence. Since her imprisonment, some Members of the U.S. Congress have appealed for her release or for a new, fair trial. In July 2000, bipartisan groups of 221 Representatives and 40 Senators urged the Clinton Administration to seek Berenson's release. Both letters cited Peru's failure to provide a fair public trial, as outlined in the International Covenant on Civil and Political Rights, to which Peru is a signatory. In August 2000 Peru's highest military court overturned her conviction, sending her to civilian court for a new trial on lesser charges of "terrorist collaboration." In June 2001, she was convicted and given a 20-year sentence, the minimum for collaboration. Berenson's appeal of that judgment was denied by Peru's Supreme Court in February 2002.

Some analysts, including former U.S. Ambassador to Peru Dennis Jett, who was serving in Peru when the MRTA took hundreds of people hostage at the Japanese ambassador's residence in 1996, say it would be "a major mistake" to make Berenson's pardon a high priority in U.S.-Peru relations and would risk making President Toledo appear to be soft on terrorism or as interfering with the courts.¹⁶

When he met with President-elect Toledo in June, President Bush asked Toledo, "in addition to the rule of law," that "humanitarian factors be taken into consideration in a final resolution" of Berenson's case. Toledo said he told Bush he believed that the judiciary system should be allowed to "do its job" and said elsewhere that he would not intervene in the case.¹⁷ The White House denied reports that President Bush had asked Toledo to grant Berenson clemency on Bush's recent trip to Lima. A

¹⁶Dennis Jett, "Don't Seek a Pardon for Berenson," The Christian Science Monitor, June 26, 2001, and "U.S. Envoy asks that Lima Rethink Berenson's Case," Chicago Tribune, June 22, 2001.

¹⁷"Bush Cites Case of U.S. Woman in Peru Meeting," Los Angeles Times, June 27, 2001, and, Harry Dunphy, "Peru's Toledo Seeks U.S. Investments," Associated Press, June 26, 2001.

spokesman said the President told Toledo Berenson was given due process in her second trial, and that he was awaiting the recommendation of the Inter-American Commission on Human Rights. The Commission could recommend her case to the Inter-American Court of Human Rights, which could order Peru to overturn her conviction – her only other option for release.¹⁸

¹⁸Associated Press, “White Houses Denies Clemency Claim,” The Washington Post, March 27, 2002.